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**DEPARTMENT OF HEALTH & HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES
REGION IX**

JUL 15 2003

75 Hawthorne Street
Suite 408
San Francisco, CA 94105

Phyllis Biedess, Director
Arizona Health Care Cost Containment System
801 E. Jefferson
Phoenix, AZ 85034

Dear Ms. Biedess:

Enclosed is an approved copy of Arizona State plan amendment (SPA) 03-005, which adds language to describe when an undue hardship exists for an institutionalized spouse. I am approving this SPA with the requested effective date of April 1, 2003.

If you have any questions, please have your staff contact Ronald Reepen at (415) 744-3601.

Sincerely,

Linda Minamoto
Associate Regional Administrator
Division of Medicaid & Children's Health

Enclosure

cc:

Joan Peterson, CMS, CMSO, FCHPG
Elliot Weisman, CMS, CMSO, PCPG (two copies)

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: ARIZONA

SECTION 1924 PROVISIONS

- A. Income and resource eligibility policies used to determine eligibility for institutionalized individuals who have spouses living in the community are consistent with Section 1924, except for those provisions set forth in Supplement 14 to Attachment 2.6-A.
- B. In the determination of resource eligibility the State minimum resource deduction is \$18,132, subject to change in accordance with federal law.
- C. An institutionalized spouse who (or whose community spouse) has excess resources shall not be found ineligible under Title XIX of the Social Security Act, per Section 1924(c)(3)(C), where the State determines that denial of eligibility on the basis of having excess resources would create an undue hardship. An undue hardship exists when all of the following exist:
 - 1. The individual is otherwise eligible for ALTCS;
 - 2. The individual is unable to obtain medical care without ALTCS;
 - 3. The property is legally unavailable without the signature of the community spouse, and the community spouse has refused to make the property available to the institutionalized spouse;
 - 4. There has been a break in marital ties. A break in marital ties does not include the temporary absence of one spouse due, for example, to hospitalization, institutionalization, vacations, visits, trips in connection with employment or for the purpose of seeking employment, and education-related absences. A break in marital ties does include situations where the individual and community spouse are physically separated and one of the following two criteria is met:
 - a. A dissolution or annulment petition has been filed with the court, although a final decree has not yet been entered;
 - b. The applicant and community spouse have entered into a court-ordered Legal Separation Agreement, pursuant to applicable state law.